



Agenda Date: 8/28/00
Agenda Item: IV-F

STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102

CABLE TELEVISION

IN THE MATTER OF THE PETITION OF)	<u>RENEWAL</u>
CSC TKR, INC. FOR RENEWAL OF A)	<u>CERTIFICATE OF APPROVAL</u>
CERTIFICATE OF APPROVAL TO CONTINUE)	
TO OPERATE AND MAINTAIN A CABLE)	
TELEVISION SYSTEM IN THE TOWNSHIP)	
OF WASHINGTON, COUNTY OF MERCER,)	
STATE OF NEW JERSEY)	DOCKET NO. CE99010003

Schenck, Price, Smith and King, Morristown, New Jersey, by Sidney Sayovitz, Esq., for the Petitioner.

Township Clerk, Township of Washington, New Jersey, by Bernadette Dubuss, for the Township.

BY THE BOARD:

On August 10, 1988, the Board granted TKR Cable Company ("TKR") a Certificate of Approval in Docket No. CE86060663, for the construction, operation and maintenance of a cable television system for the Township of Washington ("Township"). The Board approved the transfer of the Certificate of Approval for the Township from TKR to CSC TKR, Inc. ("Petitioner"), in Docket No. CF97090674, on December 17, 1997. Although the Petitioner's Certificate expired on June 3, 1998, the Petitioner is authorized to continue to provide cable service to the Township pursuant to N.J.S.A. 48:5A-25.

The Petitioner's predecessor, TKR, filed an application for the renewal of its municipal consent with the Township on August 28, 1997, pursuant to N.J.S.A. 48:5A-23 and N.J.A.C. 14:18-13. The Township, after public hearing, passed a resolution on January 5, 1998, indicating its intention to renew the municipal consent and setting forth its underlying reasons. On August 6, 1998, the Township adopted a municipal ordinance granting renewal consent to the Petitioner. However, the ordinance contained terms not agreed to by the Petitioner.

On January 6, 1999, pursuant to N.J.S.A. 48:5A-17(d), the Petitioner filed with the Board for a renewal of its Certificate of Approval for the Township, based on the arbitrary refusal provisions of the statute. The Petitioner contended that, by adopting an ordinance with terms not agreed upon by the Petitioner, the Township had been arbitrary and capricious.

The parties subsequently entered negotiations. On September 30, 1999, the Township adopted an ordinance granting renewal municipal consent to the Petitioner for a term of 10 years. On October 7, 1999, the Petitioner accepted the ordinance, in accordance with N.J.S.A. 48:5A-24. On November 12, 1999, the Petitioner filed an amended petition for the Township.

The Board has reviewed the application for municipal consent, the petition and amended petition for a Renewal Certificate of Approval and the municipal consent ordinance and amended municipal consent ordinance. Based upon this review and the recommendation of the Office of Cable Television, the Board HEREBY FINDS the following:

1. The Petitioner possesses the requisite legal, character, financial and technical qualifications for the awarding of a Renewal Certificate of Approval. Further, the Township reviewed these qualifications in conjunction with the municipal consent process. See N.J.S.A. 48:5A-22 to -29 and N.J.A.C. 14:18-13.
2. The design and technical specifications of the system will ensure that the Petitioner provides safe, adequate and proper service.
3. The Petitioner has represented that all previously required construction within the franchise territory is complete.
4. The franchise period as stated in the ordinance is ten years. The Office of Cable Television finds this period to be of reasonable duration.
5. The Township shall review the performance of the Petitioner with regard to the ordinance at the end of the fifth year of the term. Said review shall be conducted by the Mayor and Township Committee during the period beginning on the fifth anniversary and ending six months subsequent. The Township shall afford the Petitioner an opportunity to respond to all inquiries and participate in all proceedings, which shall be completed within six months after the fifth anniversary. Any determination that the Petitioner has failed to substantially comply with the material terms and conditions of the ordinance shall occur only after reasonable written notice has been provided to the Petitioner, adequate public hearings have been held and the Petitioner has been granted reasonable opportunity to cure said deficiency. Upon issuance of any such findings of non-compliance, the Township may petition the Board of Public Utilities for appropriate administrative action, including revocation of the franchise.
5. The Petitioner's rates shall be regulated and tariffs shall be filed for all services, in accordance with the rules and regulations of the Federal Communications Commission, the Board and the Office of Cable Television. The Petitioner shall maintain informational tariffs for unregulated service rates and promptly file any revisions thereto.
6. Pursuant to N.J.S.A. 48:5A-26(b), the ordinance specifies a complaint officer. In this case it is the Office of Cable Television. All complaints shall be received and processed in accordance with N.J.A.C. 14:17-6.5.
7. The Petitioner shall maintain a local business office or agent, in Allentown Borough, Hamilton Township, or the Township, for the purpose of receiving, investigating and resolving complaints. The current local office is located at 2137 Hamilton Avenue in Hamilton Township.
8. The franchise fee to be paid to the Township is specified to be 2% of the Petitioner's gross revenues from all recurring charges in the nature of subscription fees paid by subscribers for its cable television reception service in the Township.

Additional regulatory fees shall be paid to the State in an amount not to exceed 2% of Petitioner's gross operating revenues derived from intrastate operations. The Board finds these fees to be reasonable.

9. The Petitioner shall upgrade the system serving the Township using a hybrid fiber coaxial cable system. The upgrade was required to have been completed by November 30, 1999. The Office of Cable Television has confirmed that the upgrade was completed. The system is 750 MHz capable.
10. The Petitioner shall utilize the line extension policy attached to the Certificate as Appendix "I". The minimum homes per mile is 25. The Petitioner shall provide service without application of the line extension policy to the area designated as the "Town Center District".
11. The Petitioner has agreed to provide public, educational and governmental ("PEG") access channels and facilities in accordance with its renewal application and the ordinance. The Petitioner shall provide access time for public, educational and governmental entities on Channels 23, 27, 38 or any other channels that become available in the future.
12. The Petitioner shall provide free access to adequate equipment to record video programming for PEG use. If the demand for the equipment exceeds the availability of such equipment, the Petitioner shall purchase and make available additional equipment. The Petitioner shall provide a free video camera to the Board of Education, which shall be stored in one of the schools in the district. The Petitioner shall provide training to at least one person designated by the municipality and one person designated by the Board of Education. The Petitioner shall provide the equipment required to cablecast programming on one of the PEG channels to one school in the Township.
13. Within 60 days of this Certificate, the Petitioner shall provide the installation and expanded basic monthly service, free of charge, to each classroom in each school, school library and audio-visual room in the Township. The Petitioner shall also provide the same to any classroom added during future school expansions. The Petitioner shall also provide expanded basic cable service, free of charge, to the fire company, the senior center and municipal building.
14. The Petitioner shall provide one free Internet connection, with free monthly service, to each public school and library in the Township.
15. Upon request of the Township, the Petitioner shall make a representative available to appear before the Township Committee within 30 days after filing for any rate increases before the Office of Cable Television or the Federal Communications Commission.
16. The Petitioner has agreed to continue to provide a senior citizen's/disabled discount in the amount of 10% of the monthly basic and expanded basic service, or \$2.00, whichever is greater to any person 62 years of age or older, or who is disabled, and who meets the income and residency requirements of the Pharmaceutical Assistance to the Aged and Disabled (PAAD).

Based upon these findings, the Board HEREBY CONCLUDES pursuant to N.J.S.A. 48:5A-17(a) and 28(c), that the Petitioner has sufficient financial and technical capacity and meets the legal, character and other qualifications necessary to construct, maintain and operate the necessary installations, lines and equipment and is capable of providing the proposed service in a safe, adequate and proper manner.

Therefore, the Petitioner is HEREBY ISSUED this Renewal Certificate of Approval as evidence of Petitioner's authority to construct and operate a cable television system within the entirety of the Township.

This Renewal Certificate is subject to all applicable State and federal laws, the rules and regulations of the Office of Cable Television, and any such lawful terms, conditions, and limitations as currently exist or may hereafter be attached to the exercise of the privileges granted herein.

The Petitioner shall adhere to the operating standards set forth by the Federal Communications Commission's rules and regulations, 47 C.F.R. Section 76.1 et seq. Any modifications to the provisions thereof, shall be incorporated into this Certificate. Additionally and more specifically, the Petitioner shall adhere to the technical standards of 47 C.F.R. Part 76, Subpart K.

Failure to comply with all applicable laws, rules, regulations and orders of the Board or Office of Cable Television and/or the terms, conditions, and limitations set forth herein may constitute sufficient grounds for the suspension or revocation of this Certificate.

This Renewal Certificate is issued on the representation that the statements contained in the Petitioner's applications are true, and the undertakings therein contained shall be adhered to and enforceable unless specific waiver is granted by the Office of Cable Television pursuant to the authority contained in N.J.S.A. 48:5A-1 et seq.

This Certificate shall expire on June 3, 2008.

DATED: August 29, 2000

BOARD OF PUBLIC UTILITIES
BY:

(signed)
HERBERT H. TATE
PRESIDENT

(signed)
CARMEN J. ARMENTI
COMMISSIONER

(signed)
FREDERICK F. BUTLER
COMMISSIONER

ATTEST:

(signed)
FRANCES L. SMITH
SECRETARY